UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
YOO, JASSON H

ART UNIT	PAPER NUMBER
3714	

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/659,689	GERRARD ET AL.
	Examiner	Art Unit	
	Jasson Yoo	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *5/18/06*.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-79* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-79* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____.

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *5/18/06*.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-13, 15-29, 31-41, 43-50, 52-62, 64-78 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Yoseloff'334 (US No. 6,312,334) in view of *Let's Make a Deal* –

Wikipedia (http://en.wikipedia.org/wiki/Let's_Make_a_Deal) ("LMAD") and in view of Pau

et al. (US 2002/0042294).

Yoseloff teaches implementing "Let's Make a Deal" on the slot machine, but

doesn't explicitly teach how this would be done (col. 7:19-28). Figs. 6 and 7 are said to

illustrate an embodiment for playing "Let's Make a Deal". The references *Let's Make a*

Deal – Wikipedia teach the details of "Let's Make a Deal". It would have been obvious

to one of ordinary skill in the art at the time of the invention to have modified Yoseloff in

view of LMAD to *have* an offer/acceptance game in order to implement Yoseloff

suggestion to implement "Let's Make a Deal".

LMAD is a television game showed first aired in 1963. During the show, the

contestant is offered multiple award offers (pages 1-3). The multiple award offers (such

as a plastic egg or a box which may reveal $1000, a new kitchen appliance, or

something worthless; described in page 2). Throughout the show, the contestant is

given several chances to trade in the award item in exchange for another item. As the

game progresses, the prize value offered to the contestant increases. Then the

contestant is offered a chance to play the Big Deal of the Day (page 3-4). The

contestant is allowed to keep their winnings or give up everything already won for a spot

in the Big Deal of the Day. The Big Deal of the Day is offered to the top winners (page

3). A contestant is a top winner by receiving the greater of the award offers, or when

obtaining the greatest value item when trading in and exchanging award items.

Therefore, the Big Deal of the Day allows the player to keep the greater of previous

offers (greater of the first and second potential award offer), or receive a final offer (or

third offer).

Yoseloff discloses a first segment of the game, offering a winning outcome and

an associated payout (col. 3:51-54). Furthermore, the first segment of the game may

be predetermined outcomes such as number of winning outcomes or achieving one of

the specific or general groups of winning outcomes (col. 3:27-33). Implementing "Let's

Make a Deal," the first segment can have an predetermined outcome or a winning

outcome providing an award offer to the player as the initial offer (col. 7:21-24). Then

the player is provided an option (entering the second segment of the game as described

in col. 3:55-60) to accept or reject the prize offered in the first segment, to receive

instead a third award offer (col. 7:25-63).

Yoseloff in view of LMAD significantly teach the claimed invention as discussed

above. However Yoseloff in view of LMAD do not specifically teach the award offers

with different numbers of values selected from a range of numbers having a greater

upper end than a second range of number employed to selected the number of values

used to form another award offer, in order to provide a plurality of award outcomes.

Nevertheless it is well known in the art to offer awards with different number of values

selected from a range of numbers having a greater upper end than a second range of

number employed to select the number of values used to form another award offer, in

order to provide a plurality of award outcomes. It is well known in the art to weight

values within ranges in order to have certain values chosen more than others and have

awards to have approximately the same expected value. This is an important aspect of

casino management used to control the odds in which awards or other features are

present. Yoseloff in view of LMAD demonstrate this by providing various games with

different winning combinations, which further provides different winning awards; each

with approximately the same expected value (Yoseloff, col. 1:46-65). Furthermore, in

an analogous art to gaming devices and prize outcomes, Pau teaches a plurality of

award offers or prize sets (Figs. 3, 5, 7, 8, paragraph 10), with the prize sets having a

relatively even distribution varying from small prizes to large prizes (paragraphs 7, 28-

30). More specifically, Pau teaches one award offer is formed from a first number of

first values (6 award values in dice 1, in Fig. 8) and a second potential award offer

formed from a second number of second values (2 award values in dice 4, in Fig. 8);

and the first number is, on average, greater than the second number, and the second

values are, on average, greater than the first values (dice 1 having an average award value of $25, and the dice 4 having an average award value of $75, where the expected value for both dice is $25). As practiced in every wagering game industry, Pau's gaming device provide players a fair way to obtain large prizes by decreasing the probability of winning the large prizes. Therefore it would have been obvious to one skilled in the art at the time the invention was made to modify Yoseloff in view of LMAD gaming device and have awards selected from a range of number have a greater upper end than another range of number, and having the ranges weighted differently in order to offer the possibility to win from a wide range of awards, and control the odds of the awards.

Yoseloff in view of LMAD and in view of Pau further discloses:

Claims 1, 11,19-20, 22, 29, 31, 35-37, 39, 46, 48, 50, 52, 55-57, 68-70, 74; Yoseloff in view of LMAD and in view of Pau discloses a gaming device operable under control of a processor and a method of operating a gaming device comprising:

At least two potential award offers [The two potential award offers can be a large payout or a small in payout i.e. awards hidden behind one of the doors in fig. 7 (col. 3:5-8)] adapted to be formed and displayed to a player (Yoseloff, Visual Display 36 in Fig. 3), wherein

a display device wherein the processor is operable with the display device and programmed to:

determine the greater of the first and second potential award offers; cause the

display device to display an initial offer to the player, wherein the initial award offer is

the determined greater of the first and second potential award offers (when player is a

top winner, the player is offered the greater award offer, page 3 in LMAD); and enable

the player to accept the initial award offer or reject the initial award offer to instead

receive a third offer (after a predetermined condition, such as being the top winner, the

player can instead receive a third offer in the second game segment, Yoseloff, cols. 3-

19-33, 7:19-63).

The limitations of claims 1, 36, 57, 69, and 70, regarding the number of values,

the average values, and whether or not to include one or more values from each of the

groups when forming each award offer will be discussed below.

The limitation of claim 46, regarding the values for each award offer is selected to

add to the predetermined totals will be discussed below.

Claims 2-5, 12, 21, 25-28, 38, 40, 47, 58-60, 75-76 (and the limitations of

independent claims 1, 36, 57, 69, and 70 regarding the number of values and the

average values when forming each award offer); Yoseloff'334 further teaches the award

offers can be offered by any wagering game (cols. 1:46-65, 2:29-52, 3:15-18) which are

selected from different range of numbers (a game of wheel of fortune with different

ranges of numbers, col. 7:57-63; or any other modified games discussed above such as

blackjack, dominoes, mah-jong can be played with different range of numbers), and the

average values ranging in a particular set are weighted differently (Depending on the

game played, the weight of values are different; i.e. an Ace of spades is weighted more

or have a greater upper end than a two of diamonds). Pau teaches one award offer is

formed from a first number of first values (6 award values in dice 1, in Fig. 8) and a

second potential award offer formed from a second number of second values (2 award

values in dice 4, in Fig. 8); and the first number is, on average, greater than the second

umber, and the second values are, on average, greater than the first values (dice 1

having an average award value of $25, and the dice 4 having an average award value

of $75, where the expected value for both dice is $25).

Claim 24 (and the limitations of independent claim 46 regarding the values for

each of the award offer is selected to add to the predetermined totals). LMAD discloses

the prizes are predetermined (behind doors, boxes, or curtains, page 1). Yoseloff also

discloses a guessing game (selecting a door), where the awards are predetermined

before they are displayed (selecting a winning door, col. 7:19-63).

Claims 6, 16, 23, 32, 44, 49, 53, 61, 65, 77; Yoseloff discloses the values are

selected randomly from different groups of varying values (as discussed above, the

varying values can be different values of the cards in a hand, or any ranking of symbols

within a wagering game). Yoseloff also teaches the game could involve a wheel of

fortune wheel (col. 7:57-63) with varying values within the wheels. Although Yoseloff

does not specifically teach the values within a group are taken or selected in an order

from lowest to highest, or formed by selecting sequentially from the groups, it is well

known in the art to select prizes in specific order. Many casino games, or even live

game shows offer awards from lowest to greatest in value or sequentially from the

groups in order to provide suspense and excitement for the player. Furthermore, the

selection order has no effect to the prize value, when the prize value is based upon the

total of the individual award unit (i.e. In a modified game of poker, where a poker hand

of a royal flush giving the award value or prize value of the jackpot, gives the player the

jackpot prize regardless if the Ace, came out first or the Ten came out first, or any order

of the Ace, King, Queen, Jack, Ten.). Therefore it would have been obvious to one

skilled in the art at the time the invention was made to modify Yoseloff and LMAD

gaming device, and incorporate selection of order in selecting the award values from

lowest to highest in order to provide suspense and excitement for the player.

The limitation of claims 16, 32, 44, 53, 65, regarding whether or not to include

one or more values from the groups to form the award offer will be discussed below.

Claims 7, 17, 33, 45, 54, 66, 72-73 (and the limitation of the independent claims

16, 32, 44, 53, 65, 70 regarding whether or not to include one or more values from the

groups to form the award offer); Yoseloff discloses the groups are weighted to be

selected randomly more often than at least one of the other groups. Yoseloff discloses

the games could be a combination or a modified version of any wagering game such as

poker, mah jong, dominoes, twenty one, black jack, or games that does not even

include playing cards (cols. 1-5). Yoseloff also discloses the game could be played

involving a wheel of fortune wheel wherein the prizes weighted so the greater value

prizes are selected less than the less valued prizes. As discussed above, it is well

known in the art to offer awards in groups weighted to be selected randomly more often

than at least one of the other groups, and to include one or more values from the

groups, in order to provide a plurality of award outcomes. This is an important aspect of

casino management used to control the odds in which awards or other features are

present. Therefore it would have been obvious to one skilled in the art at the time the

invention was made to modify Yoseloff and LMAD gaming device, and incorporate

weighted groups, in order to provide a plurality of award outcomes, and maintaining the

odds favorable to the casino.

Claims 8-9; Yoseloff discloses a gaming device of claim 6, as discussed above.

However Yoseloff does not specifically teach the groups are arranged in a grid, and

wherein values of a same relative amount within their respective groups are arranged

adjacently in the grid, nor does it teach some of the values of the same relative amount

between the groups are the same values. However this is an aesthetic design choice in

displaying the award points in a particular arrangement. Aesthetic design changes that

do not impact the function of system cannot be relied on to distinguish the claimed

subject matter over prior art. See In re Seid, 161 F.2d 229, 73 USPQ 431 (CCPA 1947).

In this case, the claimed subject matter of groups and values arranged in a grid is an

aesthetic design choice and does no functionally alter the probability of the selection of

the award values or the selection of the first, second or third award offers as suggested

by Yoseloff. Therefore it would have been obvious to one skilled in the art at the time

the invention was made to modify Yoseloff gaming device and arrange the groups and values in a grid in order to provide a display of awards in an organized way, allowing the players to easily see the range of award values that are available.

Claims 10, 18, 34, 55, 67; Yoseloff discloses the values are added to form the first, second and third awards offers and the potential award offers is a combination of at least two values. Yoseloff discloses the game apparatus is used with any wagering game such as blackjack, which is played by the sum of the values. Yoseloff also discloses the award can be cumulative award basis or partial accumulated award basis (leading to the selection of the second and third award offers) which can be the added form of the values in any wagering game (col. 5:28). Yoseloff also discloses the award can be based an a wheel of fortune wheel (adding the award points from the wheel), and can be a combination of symbols (col. 7:57-63).

Claims 13, 29, 41, 50, 62, 78; Yoseloff discloses the gaming device is controlled through a computer storage device (ROM memory 46, col. 10:44) and the gaming device includes an on-board processor that forms the award offers (MPU 33, col. 10:42-46).

Claims 22, 48; Yoseloff and LMAD does not specifically teach that the first award offers are displayed before the values of the second award offers, which are both displayed before the values of the third award offer. However, the order of which the

award offers are displayed is an aesthetic design choice. Aesthetic design changes that do not impact the function of system cannot be relied on to distinguish the claimed subject matter over prior art. See *In re Seid,* 161 F.2d 229, 73 USPQ 431 (CCPA 1947). In this case, the claimed subject matter of the order in which the award offers are displayed is an aesthetic design choice and does no functionally alter the gaming system suggested by Yoseloff and LMAD in which the player is given a choice of three award offers, where the values for each award offer is randomly selected.

Claim 71, Yoseloff discloses the second offer occurs after the termination of the first offer. The first offer can be a first hand of cards, and the second offer could be the second hand of cards (col. 5:21-33). The offering of the awards can be repeated a number of times before the final (third) offer (col. 5:1-20).

Claims 13-15, 29-31, 41-43, 50-52, 62-64, 78-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoseloff'334 in view of *Let's Make a Deal –* Wikipedia (http://en.wikipedia.org/wiki/Let's_Make_a_Deal) and in view of Pau et al. (US 2002/0042294) as applied to claims above, and in further view of Kelly et al.'918 (US 5,816,918).

Yoseloff and LMAD discloses a gaming device as discussed above. However Yoseloff does not teach the processor is located remote from the gaming device, or the gaming device is controlled through a data network, or the data network includes an internet. In an analogous art to wagering games and methods of providing the games

to the players, Kelly et al. 918 teaches of a gaming device connected to a network, and

the Internet (col. 2:33-49). When the gaming device is connected to a network, it

connects to a server which further comprises a processor (Fig. 4) Therefore it would

have been obvious to one skilled in the art at the time the invention was made and

modify Yoseloff and LMAD gaming device and control the gaming device through a data

network and the Internet, in order to allow players to play from a remote server (col.

2:45-49), thus providing more flexibility when updating and monitoring the game.

Response to Arguments

Applicant's arguments with respect to claim 1-79 have been considered but are

moot in view of the new ground(s) of rejection.

Regarding claims 1-13, 15-29, 31-41, 43 to 50, 52-62, and 64-28, Applicant

argues Yoseloff does not discloses a first potential award offer formed from a first

number of first values (wherein the first number is greater than one) and a second

potential award offer formed from a second number of second values; and the first

number is, on average, greater than the second number, and the second values are, on

average greater than the first values. However as discussed above, it is well known in

the art to weight values within ranges in order to have certain values chosen more than

others and have awards to have approximately the same expected value. This is an

important aspect of casino management used to control the odds in which awards or

other features are present. Yoseloff in view of LMAD demonstrate this by providing

various games with different winning combinations, which further provides different

winning awards; each with approximately the same expected value (Yoseloff, col. 1:46-65). Furthermore, Pau teaches a plurality of award offers or prize sets (Figs. 3, 5, 7, 8, paragraph 10), with the prize sets having a relatively even distribution varying from small prizes to large prizes (paragraphs 7, 28-30). More specifically, Pau teaches one award offer is formed from a first number of first values (6 award values in dice 1, in Fig. 8) and a second potential award offer formed from a second number of second values (2 award values in dice 4, in Fig. 8); and the first number is, on average, greater than the second umber, and the second values are, on average, greater than the first values (dice 1 having an average award value of $25, and the dice 4 having an average award value of $75, where the expected value for both dice is $25). As practiced in every wagering game industry, Pau's gaming device provide players a fair way to obtain large prizes by decreasing the probability of winning the large prizes.

Regarding claims 1, 20, 46, and 57, Applicant argues Yoseloff in view of LMD does not teach of offering the determined greatest/highest of the potential award offers to the player as an initial offer. LMAD often offer prizes that were less than the amount the player already had. But on average, the prizes later in the game were worth more. The contestant winning the greatest/highest prizes throughout the game, were considered to be the top winner (LMAD, page 3). Therefore, in order to meet the criteria of being the top winner and continue on to the Big Deal of the Day, the player must be offered the greatest/highest of the potential award offers. Yoseloff teaches the first segment of the game may be a video enactment of Let's Make a Deal (col. 7:19-24), where a certain criteria must be met (such as winning a predetermined outcome or a

number of wining outcomes, col. 3:19-30), in order move on to the second segment and

receive the third award offer (col. 7:25-63).

Regarding claims 1, 20, 46, and 57, Applicant argues it is not obvious to have

award selected from a range of numbers having a greater upper end than another range

of numbers in order to offer the possibility to win from a wide range of awards, and

control the odds of the awards. However, there are many gaming machines with

different awards, selected from various range of numbers. Yoseloff provide various

games with different winning combinations, which further provides different winning

awards; each with approximately the same expected value (Yoseloff, col. 1:46-65).

Furthermore, Pau teaches a plurality of award offers, where one award offer is formed

from a first number of first values and a second potential award offer formed from a

second number of second values; and the first number is, on average, greater than the

second number, and the second values are, on average, greater than the first values

(as discussed above).

Regarding claim 46, Applicant argues Yoseloff in view of LMAD does not teach

the awards are predetermined before they are displayed. LMAD discloses the prizes

are predetermined (behind doors, boxes, or curtains, page 1). Yoseloff also discloses a

guessing game (selecting a door), where the awards are predetermined before they are

displayed (selecting a winning door, col. 7:19-63).

Regarding claim 57, Applicant argues Yoseloff in view of LMAD does not teach at

least two potential award offers each formed from a plurality of values selected from a

plurality of value levels displayed to a player, wherein different value levels are weighted

so that at least one value level is selected more often than another. As discussed above it well known in the art to provide players a fair way to obtain large prizes by decreasing the probability of winning the large prizes. Furthermore Pau teaches at least two potential award offers each formed from a plurality of values selected from a plurality of value levels displayed to a player, wherein different value levels are weighted so that at least one value level is selected more often than another (Figs. 3, 5, 7, 8, paragraphs 4-11, 28).

Regarding claim 70, Applicant argues Yoseloff in view of LMAD does not teach forming different groups of values and forming a first offer by sequentially determining in the groups whether or not to include one ore more values from the groups in the first offer until determining in each group not to include one the values in the group. As discussed above and further supported by Pau, it is well known in the art to provide awards from different groups of values, where the higher values have a lower probability of being selected. Yoseloff discloses the player can accept this offer, or move to the second segment of the game and receive a second offer (col. 7:21-63).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

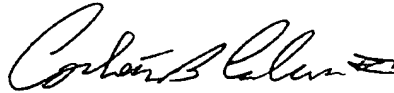than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jasson Yoo whose telephone number is (571)272-5563.

The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Olszewski Robert can be reached on (571)272-6788. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the

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Business Center (EBC) at 866-217-9197 (toll-free).

JHY

CORBETT B. COBURN
PRIMARY EXAMINER